IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO. 401 of 2004
Date of decision. March 6,2007

Darshan Singh Goraya . .....Petitioner

Versus

Punjab Small Industries and Export Corporation .....Respondent

CORAM **HON'BLE MR. JUSTICE VINEY MITTAL**

PRESENT Mr. B. R. Mahajan ,Advocate
for the appellant
Mr. Manish Bansal, Advocate
for respondent.

VINEY MITTAL , J(Oral)

Plaintiff is in second appeal.

A suit for permanent injunction was filed by the plaintiff for directing the defendant Punjab Small Industries and Export Corporation Limited to hand over / deliver the vacant possession of plot No. 425, Focal Point , Amritsar after removal of 11 KV wire from the aforesaid plot. The plaintiff claimed that he had been allotted plot in question but even after the deposit of the amount of Rs. 8,40,000/-, the possession of the said plot had not been delivered. The plaintiff also pleaded that he had invested huge amount for purchasing the plot but after the allotment of the said plot , it was realised that 11 KV electricity line was going over and above the plot and therefore, possession of the said plot was not handed over to the plaintiff and inspite of many representations made by the plaintiff, neither said electricity line was removed nor the complete possession of the said plot was handed over. He also claimed that as per the policy of the corporation plaintiff was entitled to remission of interest / penal interest.

The suit was contested by the defendant. Allotment of the plot in favour of the plaintiff was admitted. It was also admitted that

electricity wires were passing over the corners of the plot but the corporation maintained that sufficient area was available with the plaintiff to raise construction over the plot. The corporation also maintained that plaintiff had not started the construction of the building within the stipulated period and also failed to deposit instalments of the balance amount.

The learned trial Court decreed the suit filed by the plaintiff only for permanent injunction and the defendant corporation was restrained from allotting / transferring the plot to any other person except in due course of law.

Two separate appeals were filed before the Appellate Court. Plaintiff filed the appeal claiming that he was entitled to mandatory injunction as well as to the waiving off the interest / penal interest. The defendant corporation filed the appeal against the partial decreeing of the suit of the plaintiff.

The learned first Appellate Court re-appraised the evidence and affirmed all the findings of fact recorded by the trial Court. It was noticed by the Appellate Court that since high tension wires could only be removed / shifted by Punjab State Electricity Board which had not been arrayed as defendant in this suit, therefore, no relief regarding removal of the aforesaid wires could be granted. It was also noticed by the Appellate Court that permanent injunction granted in favour of the plaintiff was justified. The Appellate Court also observed that in case Punjab State Electricity Board does not shift or remove the electricity wire over and above the plot in question, then the defendant corporation may consider the case of plaintiff for granting the further relief.

Consequently both the appeals were disposed of by the Appellate Court.

After hearing learned counsel for the parties and taking into consideration the observations made by the two Courts below in

partly decreeing the suit, I find that no further relief is possible to be granted to the plaintiff.

Plaintiff has to seek his appropriate remedies against the Punjab State Electricity Board and by approaching the defendant corporation in accordance with law.

No question of law, much less, any substantial question of law arises in the present appeal.

Dismissed.

March 6, 2007 **(VINEY MITTAL)**
mamta **JUDGE**